Government of Kerala
1984

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 7028/LA4/84. *Dated, Trivandrum, 5th July, 1984.*

The Kerala Prisoners Bill, 1984 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

K. P. Padmanabhan,
Secretary,
Legislative Assembly.

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33/2667/MC.

Seventh Kerala Legislative Assembly

Bill No. 122

THE KERALA PRISONERS BILL, 1984

A

BILL

to unify the law relating to prisoners confined by order of courts.

Preamble.—WHEREAS it is expedient to unify the law relating to prisoners confined by order of courts;

BE it enacted in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and extent.*—(1) This Act may be called the Kerala Prisoners Act, 1984.

(2) It extends to the whole of the State of Kerala.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires,—

(a) "court" includes any officer lawfully exercising civil, criminal or revenue jurisdiction;

(b) "Inspector General" means the Inspector General of Prisons;

(c) "prison" includes an open prison and any place which has been declared by the Government, by general or special order, to be a subsidiary jail;

(d) "State" means the State of Kerala.

(2) All references in sections 5 to 9 to "prisons" or to "imprisonment" or "confinement" shall be construed as referring also to children's homes and special schools established by the Government, Borstal Schools and other institutions of like nature or to detention therein.

3. *Officers in charge of prisons to detain persons duly committed to their custody.*—The officer in charge of a prison shall receive and detain all persons duly committed to his custody, under this Act or otherwise, by any court, according to the exigency of any writ, warrant or order by which such person has been committed or until such person is discharged or removed in due course of law.

4. *Officers in charge of prisons to return writs, etc., after execution or discharge.*—The officer in charge of a prison shall forthwith after the execution of any writ, order or warrant under section 3, other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the court by which the same was issued or made, together with a certificate endorsed thereon and signed by him showing how the same has been executed or why the person committed thereby has been discharged from custody before the execution thereof.

5. *Power of Officers in charge of prisons to give effect to sentence of courts.*—Officers in charge of prisons within the State may give effect to any sentence or order or warrant for the detention of any person passed or issued—

(a) by the High Gourt or by any other court or tribunal acting within the State under the general or special authority of the Government; or

(b) by any other court or tribunal in India if the reception, detention or imprisonment of persons sentenced by any such court or tribunal has been authorised by general or special order of the Government.

6. *Warrant of officer of court or tribunal to be sufficient authority.*—A warrant under the official signature of an officer of any court or tribunal referred to in section 5 shall be sufficient authority for holding any person in confinement in pursuance of the sentence passed upon him.

7. *Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution.*—(1) Where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution or the competency of the person whose official seal or signature is affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to the Government, by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

(2) Pending a reference made under sub-section (1) the prisoner shall be detained in such manner, and with such restrictions or mitigations, as may be specified in the warrant or order.

8. *Removal of prisoners from one prison to another.*—(1) The Government may, by general or special order, provide for the removal of prisoners from one prison to another within the State.

(2) Subject to the orders, and under the control, of the Government, the Inspector General may, by order, provide for the removal of prisoners from one prison to another within the State.

(3) Subject to the orders, and under the control, of the Government and the Inspector General, the Collector of a district may, by order, provide for the removal of prisoners from one subsidiary jail to another within the district and he shall inform the Inspector General of all such transfers immediately after the transfers are ordered by him.

9. *Lunatic prisoners how to be dealt with.*—(1) Where it appears to the Government that any person detained or imprisoned under any order or sentence of any court is of unsound mind, the Government may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the State, there to be kept and treated, as the Government direct during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or if, on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to the Government that the prisoner has become of sound mind, the Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the State, or if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The time during which a prisoner is confined in a lunatic asylum under sub-section (1) shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the court to undergo.

(4) In any case in which the Government are competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the State, the Government may order his removal to any such asylum or place within any other State in India or within any Union Territory specified in the First Schedule to the Constitution of India, by agreement with the Government of such other State or the Administrator of such Union Territory.

10. *Power to make rules.*—(1) The Government may by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

11. *Repeal.*—The Travancore-Cochin Prisoners Act, 1950 (XVII of 1950) is hereby repealed and the Prisoners Act, 1900 (Central Act 3 of 1900), shall cease to apply to the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956).

STATEMENT OF OBJECTS AND REASONS

The law relating to prisoners in the Travancore-Cochin area of the State is contained in the Travancore-Cochin Prisoners Act, 1950 (XVII of 1950), while in the Malabar area, the corresponding law in force is the Prisoners Act, 1900 (Central Act 3 of 1900). It is considered necessary to replace these laws by a single enactment applicable to the whole State.

2. The Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

The Bill if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill seeks to empower the Government to make rules to carry out the purposes of the Act. The matters in respect of which rules may be made will only be of a procedural and administrative nature. Further, tbe rules after they are made shall be subject to scrutiny of the Legislative Assembly. The Delegation of Legislative power is thus of a normal character.

VAYALAR RAVI

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GOVERNMENT OF KERALA

General Administration (Political-A) Department

NOTIFICATION

No. 71701/Pol. A2/84/GAD. *Dated, Trivandrum, 5th July, 1984.*

Shri P. J. Joseph, Minister for Revenue has returned to the State on 30-6-1984. The temporary arrangements for attending to the subjects held by Shri P. J. Joseph ordered in the notification of even number dated 7-6-1984 stand cancelled with effect from 30-6-1984.

R. GOPALASWAMY,
Chief Secretary to Government.

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